

BOARD OF PAROLE HEARINGS

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December 30, 2015

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN LUIS OBISPO
1035 PALM ST. RM. 450
SAN LUIS OBISPO, CA 93408

Subject: **NON-VIOLENT SECOND STRIKER RELEASE DECISION**

Inmate's Name: DELGADO, ROBERT, NESTOR

CDCR#: AR6874

COURT CASE#: F493967

The California Department of Corrections and Rehabilitation (CDCR) is mandated by court order to have a parole process that allows certain offenders convicted of a "second strike" based on a non-violent offense to be eligible for parole after serving 50% of their term. It is for this reason the inmate referenced above was referred to the Board of Parole Hearings (Board) from CDCR with a recommendation for release. The Board reviewed the inmate's record and the Board's decision is to deny.

Please direct any inquiries concerning the inmate to the institution where the inmate is housed.

Respectfully,

BOARD OF PAROLE HEARINGS
NVSS Processing Unit

NON-VIOLENT SECOND STRIKER DECISION FORM

NON-VIOLENT SECOND STRIKER INFORMATION

Inmate Name: DELGADO, ROBERT,NESTOR
CDCR Number: AR6874
Institution: Avenal State Prison

BPH DECISION

JURISDICTIONAL REVIEW

- ☐ BPH does not have jurisdiction, no further review.
☒ BPH has jurisdiction.

REVIEW ON THE MERITS

- ☐ Recommendation to release approved.
☒ Recommendation to release denied.

Decision based on the reasons stated below:

Issue: After considering together the findings on each of the five of the inmate's case factors, both aggravating and mitigating, do those factors tend to show the inmate poses an unreasonable risk of violence to the community?

Statement of Reasons:

1) Current Commitment Offense: Mr. Delgado's commitment offense, Possession of illegal Substances in Prison (PC 4573.6) is a mitigating factor in this case. The commitment offense involved Mr. Delgado found in possession of methamphetamine in his hand while in his prison cell. Upon review there do not appear to be any aggravating circumstances of the commitment offense. Mitigating circumstances include a weapon was not used, there was no violence or threat of violence, no one suffered a physical injury and the commitment offense involved drug use. When balancing the aggravating circumstances against the mitigating circumstances, the inmate's current commitment offense is a mitigating factor.

2) Prior Criminal Record: Mr. Delgado's felony convictions began in 1987 and continued until the second strike conviction in 2013. The inmate's prior criminal record is an aggravating factor in this case. His criminal record includes felony convictions in 1987 for Possession of a Dangerous Weapon (PC 12020(A)), Force likely to cause great bodily injury (PC 245(a)(1)) in 1995, Deprive Custody Right of Another (PC 277) in 1995, Willful Discharge of a Firearm (PC 246.3) in 1997, Possession of a Controlled Substance for Sale (HS 11378) in 2000, Possession of a Controlled Substance for Sale (HS 11378) in 2002, Possession of a Controlled Substance (HS 11350(A)) in 2012 and the current commitment offense in 2013. The inmate has been convicted of more than three felony offenses- a total of eight felony convictions, as previously listed. The prior felony convictions show a pattern of similar repetitive criminal conduct. The convictions involve drug possession, weapon possession and force upon another. Mitigating circumstances include prior felony convictions, at least three convictions, involve drug possession. After balancing the aggravating circumstances and the mitigating circumstances, Mr. Delgado's prior criminal record is an aggravating factor.

3) Institutional Behavior: Mr. Delgado has been incarcerated since October 25, 2013. During his current term, he has suffered a counseling chrono in 2014 for disruptive behavior. Mr. Delgado participates in a Substance Abuse Treatment program. The inmate has taken action to separate himself from gang activity and involvement by seeking Sensitive Needs Yard placement in March 2014. After balancing the positive factors against the negative factors, the inmate's institutional record shows compliance with institutional rules and is a mitigating factor.

NON-VIOLENT SECOND STRIKER DECISION FORM

REVIEW ON THE MERITS

4) Medical Condition: Mr. Delgado does not suffer from a medical condition decreasing his ability to reoffend.

5) Response to Legal Notices: There was a response to Legal Notices from the District Attorney's Office of San Luis Obispo County opposing the inmate's early release which was considered in this decision.

Decision: When balancing the aggravating factors which include the extent of Mr. Delgado's criminal history against the mitigating factors of his current commitment offense and institutional behavior, the aggravating factors outweigh the mitigating factors and the inmate does pose an unreasonable risk of violence to the community and release is denied.



December 29, 2015

SIGNATURE

REVIEW DATE

HOCKENHULL, TAMIZA

NAME